

REMARKS

In the March 25, 2005 Office Action, the Examiner noted that claims 1-16 were pending in the application; rejected claims 1-6 under 35 USC § 102(e); and rejected claims 7-16 under 35 USC § 103(a). In rejecting the claims, U.S. Patents 6,188,752 to Lesley; and 5,991,748 to Taskett (References A and C, respectively) were cited. Claims 17-56 have been added and thus, claims 1-58 remain in the case. The Examiner's rejections are traversed below.

The Application

The application is directed to a telephony platform 100 (Fig. 1) which is connected to, but separate from telephone companies 13. As illustrated in Fig. 1, telephony platform 100 includes server 17 running Net Manager™ subsystem 104 and server 23 running "Call Manager™" subsystem 102. As represented by "server 17/23" in Fig. 2, the telephony platform is also connected to other systems, such as central operations office 71 and regional office 59 which provide account management (see, e.g., paragraph [0058]). Included in CallManager 102 is a Billing Module that provides "for real-time debit or charge of a customer's associated account" (paragraph [0037], third sentence), including "real-time billing, settlement, and reconciliation with third-party external-carrier ... systems" (paragraph [0048], third sentence). Using this mechanism, "the user provides a bank account or credit card account number from which the system will, in real time, transfer funds into the user's telephony account" (paragraph [0071], last sentence).

Requirement for New Declaration

In item 2 on page 2 of the Office Action, the Examiner required a new Declaration, due to the names used on the Declaration. However, each of the inventors signed the Declaration acknowledging that their name appeared on the Declaration and the Examiner cited no evidence that the inventors were inaccurately identified. Therefore, withdrawal of this requirement is respectfully requested.

Rejections under 35 U.S.C. § 102(e)

In item 4 on page 2 of the Office Action, the Examiner rejected claims 1-6 under 35 U.S.C. § 102(e) as anticipated by Lesley. In making this rejection, it was asserted that Lesley disclosed obtaining additional funds from a first account to be added to a second account at column 9, line 31 to column 10, line 22. According to this portion of Lesley, "a subscriber increases his prepaid account balance" (column 9, lines 32-33) by entering a personal

identification number (PIN) and "a monetary value to be added to his prepaid account" (column 9, line 67 to column 10, line 1). In response, the amount in the prepaid account is increased by updating a "subscriber record stored in database 26" (column 10, lines 11-12) and "[t]he service control point 20 then signals the billing system to update the subscriber's account in the billing system database 44 to reflect the amount added by the subscriber during this transaction" (column 10, lines 12-15) as indicated in steps 13 and 14 in Fig. 5, with reference to the system block diagram in Fig. 1. As illustrated therein and as described at column 7, lines 34-60, billing system database 44 is part of billing system 40 which is used "to generate an appropriate billing statement to the subscriber" (column 3, lines 57-58). The "subscriber's account" is defined as "the number used to identify a subscriber's basic subscription to the communications network" (column 2, lines 56-67). The only examples of the subscriber's account provided in Lesley is that "the subscriber account number might correspond to the subscriber's home residence telephone number or business telephone number" (column 6, line 67 to column 7, line 2). In other words, Lesley only teaches increasing the amount of a prepaid account by billing a subscriber's home or business phone for subsequent billing. Furthermore, all of the accounts involved are within the telecommunication provider's system.

In contrast, claim 1 has been amended to recite "obtaining the additional funds in a real-time transaction debiting the other account and adding the additional funds to the pre-authorized account" (claim 1, last 2 lines), as described in the application. It is submitted that Lesley does not disclose "a real-time transaction debiting ...[an]other account" as now recited in claim 1, but rather a mechanism for generating a bill to a telecommunications subscriber to increase the amount in a prepaid account, instead of requiring the telecommunications subscriber to go to a store to buy a new card. The present invention does not limit users of prepaid or pre-authorized accounts to those who are subscribers of telecommunications systems. Any conventional account that accepts electronic funds transfers of the type described in the application, including bank credit card accounts and debit accounts can be used to increase the value of the prepaid or pre-authorized account. This is a significant advantage over the system taught by Lesley which contains no suggestion of how to perform a "a real-time transaction debiting ...[an] account" that is not within the telecommunication provider's system.

Rejections under 35 U.S.C. § 103(a)

In item 6 on pages 4-9 of the Office Action, the Examiner rejected claims 7-16 under 35 U.S.C. § 103(a) as unpatentable over Lesley in view of Taskett. In making this rejection, it was asserted that Taskett suggested "sending a request from a first platform to a second platform to

obtain the additional funds from another account associated with the user and disposed on the second platform" (claim 7, lines 7-9) at column 5, lines 29-51 and column 6, lines 18-35. However, all that is described at these portions of Taskett is that "funds are deducted or withdrawn from transaction instrument 205 and transferred to calling card 105 without entering information relating to the funds source" (column 5, lines 36-39), where the transaction instrument is defined as "a prepaid card, a debit card, an American Express™ credit card, or other credit card" (column 6, lines 26-28). No suggestion has been found in Taskett that the charges are made "in a real-time transaction" (claim 7, line 10). The system disclosed in Taskett, like the system disclosed in Lesley is not capable of real-time transactions. All that Taskett discloses is storing the credit or debit account number in database 310 (Fig. 3), so that the user doesn't have to enter the information. How the transaction would be accomplished is not disclosed. The system illustrated in Fig. 3 is only capable of completing a call from calling party module 306 to destination 312. No connection to any funds transfer network is disclosed in either Taskett or Lesley. It is submitted that additional evidence must be cited showing that one of ordinary skill in the art would have known how to perform a real-time transaction increasing a prepaid telephone account at the time of filing the great-grandparent application, Serial No. 09/395,868 on September 14, 1999 and its priority provisional applications 60/100,440 and 60/100,470 on September 15, 1998.

For the above reasons, it is submitted that claim 7 and claims 8 and 9 which depend therefrom patentably distinguish over Lesley in view of Taskett. Furthermore, since claim 1 also recites "a real-time transaction" it is submitted that claims 1-6 also patentably distinguish over Lesley in view of Taskett.

The independent claims all require "a real-time transaction" or "charging [or charged] in real time" (e.g., claim 29, line 10) or describe operations performed in real-time that are impossible to accomplish using the systems taught by Lesley and Taskett. Claims 37 and 39 recite "transmitting a charge from the platform using rating engines that dynamically calculate charges to an account associated with the user" (e.g., claim 37, lines 9-10). Claim 40 recites determining "that an account associated with the user has a sufficient value available for payment" (claim 40, lines 9-10). Claims 41, 42 and 50 recite that a service is provided or transaction authorized "while the platform is charging an account" (e.g., claim 41, lines 12-13) or something similar. Therefore, it is submitted that claims 10-58 patentably distinguish over Lesley in view of Taskett for the reasons set forth above.

Other Comments

The claims have been amended to change phrases in the form of "at least one of A, B and C" which were intended to be an alternative expression meaning one or more of A, B and C, to the phrase "at least one of A, B or C" with the same meaning, to conform to the holding in *Superguide v. DIRECTV*, 69 USPQ2d 1865 (Fed. Cir. 2004) which failed to recognize the meaning intended by applicants and patent application drafters of thousands of issued U.S. patents. Thus, the change in wording of these phrases is not intended to have any patentable effect, but merely to change from proper language that was not interpreted correctly by the Court of Appeals for the Federal Circuit.

Summary

It is submitted that the references cited by the Examiner, taken individually or in combination, do not reach or suggest the features of the present claimed invention. Thus, it is submitted that claims 1-58 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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